



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

DUPUIS et al

Atty. Ref.: 2350-73

Serial No. 09/341,241

Group: 1617

Filed: September 14, 1999

Examiner: Sharareh

For: COSMETIC OR DERMATOLOGICAL COMPOSITION IN  
THE FORM OF A GEL, CONTAINING IN A MIXTURE AN  
ASSOCIATIVE COPOLYMER, A SURFACTANT AND A  
CONDITIONING AGENT

#22  
3/28/03

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Assistant Commissioner for Patents  
Washington, DC 20231

March 21, 2003

03/26/2003 SDIRETA1 00000043 09341241

02 FC:1806

Sir:

180.00 DP

**INFORMATION DISCLOSURE STATEMENT**

- ☐ 1. **PTO-1449 Pursuant to 37 CFR 1.97(b)**  
[within 3 months of filing or prior to 1st Office Action on the merits]  
N/C
- ☐ 2.(a) **Statement Pursuant to 37 CFR 1.97(c)**  
[before Final Office Action or Allowance (requires Rule 97(e)  
Statement or Rule 17(p) fee)]  
N/C
- ☒ 2.(b) **Fee Payment Pursuant to 37 CFR 1.97(c)**  
[before Final Office Action or Allowance (requires Rule 97(e)  
Statement or Rule 17(p) fee)]  
\$180.00
- ☐ 3. **Pursuant to 37 CFR 1.97(d)**  
[after Final Office Action or Allowance (requires Rule 97(e)  
Statement and Rule 17(p) fee), but before final fee payment]  
\$180.00

The following are submitted in the above-identified application in compliance with  
37 C.F.R. §§ 1.97 and 1.98:

- ☒ 4. The counterpart European Patent has been opposed and the

opponent has cited the documents listed in the attached PTO-1449 Form. Copies of each identified document will be provided under separate cover once received by the undersigned. A concise explanation of at least each non-English language document is provided as follows:

Document Acrysol ICS-1 Cosmetic Grade Thickeners, (Rohm & Haas)

This document discloses the use of Acrysol ICS-1 (Acrylate/Steareth 20 Methacrylate copolymer) as a thickener agent, and various cosmetic compositions comprising said Acrysol ICS-1. A "Free Standing Gel" obtained by association of Acrysol with bentonite clays is also disclosed.

International Cosmetic Ingredient Dictionary, 5<sup>th</sup> ed., 1993, page 434

This document discloses Triton N-101, which is a non-ionic surfactant, also named Nonoxynol-10 or PEG-10 Nonyl-phenyl ether.

Ernest W. Flick, Cosmetic and Toiletry Formulations, 2<sup>nd</sup> ed., Noyse Publications, Park Ridge, USA, 1989, page 232

The disclosed compositions comprise insoluble conditioning agents in an amount much higher than in the claimed composition.

Ernest W. Flick, Cosmetic and Toiletry Formulations, 2<sup>nd</sup> ed., vol. 2, 1992, pages 154, 176, 454, 508, 509 and 721

*The opponent cites more specifically the following compositions: a Hand and Body Moisturizer (page 154), a Low Cost Solids Lotion (page 508) and an Aerosol Shave Cream (page 721).*

EP 0 422 862 A2

Discloses a Facial Cleansing Composition, in the form of an oil in water emulsion. The concentration of surfactant is believed by the applicants to be higher than the maximum 1% required in the present invention.

WO 94/02120 A1

Discloses a triple emulsion water/oil/gelified water. The applicants believe this is no disclosure of the association of non-ionic surfactants and associative non-cross-linked copolymers.

WO 94/07457 and EP 0 639 370

Gels for Capillary Treatments. They comprise, inter alia, 0.3 to 4%

of an acrylic acid homopolymer which the applicants believe is by definition different from the copolymer required in the present invention. Further, all the disclosed homopolymers (page 5) are believed to be cross-linked.

EP 0 640 335 A2

This document discloses a Hair Colouring Composition packaged in two parts (lotions and developers) intended to be mixed prior to use, in order to provide a gel. The gel comprises at least anionic and/or amphoteric surfactant, which the applicants believe does not correspond to the definition of the present invention. Furthermore, this formulation is believed by the applicants to not comprise any insoluble conditioning agent as required in the present invention.

Karl-Heinz Schrader, Grundlagen and Rezepturen der Kosmetika, 2<sup>nd</sup> ed., Hüthig Buch Verlag Heidelberg, 1989, pages 782-807

Cosmetic text book (general knowledge). The choice of a non-ionic surfactant and its specific ratio with a non-cross-linked associative copolymer, as required in the present invention, in the applicants view, neither taught, nor suggested.

H.P. Fiedler, Lexikon der Hilfsstoffe für Pharmazie, Kosmetik and angrenzende Gebiete, Editio Cantor Verlag Aulendorf, 4<sup>th</sup> ed., 1996 in two volumes, vol. 1, pages 614 and 867

Cosmetic dictionary, disclosing generally alcohols, conditioning agents and their applications, wherein the choice of a non-ionic surfactant and its ratio with a non-cross-linked associative copolymer as required in the present invention is, in the applicants view, neither taught, nor suggested.

This paper is submitted in accordance with:

- ☐ 5. 37 CFR 1.97(b): [within 3 months of filing or prior to 1st Office Action]
- ☒ 6. 37 CFR 1.97(c): [before Final Office Action or Allowance, whichever is earlier]; and
  - ☐ a) The required Statement made in item 8 below; or
  - ☒ b) The \$180.00 fee specified in 37 CFR §1.17(p) for submission of this Information Disclosure Statement is authorized in item 9 below.
- ☐ 7. 37 CFR §1.97(d): [after Final Office Action or Allowance (requires Rule 97(e) Statement and Rule 17(p) fee), but before final fee payment]; and

- ☐ a) The fee (\$180.00) required by 37 CFR §1.17(p) is submitted herewith; and
- ☐ b) The required Statement is stated in item 8 below.
- ☐ 8. Statement under 37 CFR 1.97(e)
- ☐ a) The undersigned attorney of record hereby certifies under 37 C.F.R. §1.97(e) that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement (each item contained in this IDS was the first citation of that item by a foreign patent office in a counterpart foreign application which occurred no more than three months prior to the filing of this IDS); or
- ☐ b) No item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application, and, to the knowledge of the person signing this Statement, after making reasonable inquiry, no item of information contained in this Statement was known to any individual designated in 37 CFR §1.56(c) more than three months prior to the filing of this Information Disclosure Statement.
- ☒ 9. Please charge all deficiency fees associated with the submission of this Information Disclosure Statement and any other fees applicable to this application to Deposit Account No. 14-1140. An original and one (1) copy of this document are enclosed.

Respectfully submitted,  
NIXON & VANDERHYE P.C.

By: 

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